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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,059	06/25/2003	Gregory William Dake	RPS9 2003 0045 US1	3788

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IBM (RPS-BLF)
c/o BIGGERS & OHANIAN, LLP
P.O. BOX 1469
AUSTIN, TX 78767-1469

EXAMINER

PATEL, ANAND B

ART UNIT PAPER NUMBER

2116

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,059

Applicant(s)

DAKE ET AL.

Examiner

Anand Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 6, 14 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Amendment filed 6/21/06 has been entered and as such claims 4, 18 are amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7-13, 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent

Application Publication No 2004/0117536 to Franke et al (Franke).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

- As per claims 1, 15, Franke discloses a power management method for use in a multi-server data processing network (figure 5), comprising:
 - Responsive to detecting a power transition, determining whether the power transition is indicative of a cold start (inherent that the transition is detected if the type of transition is determined; paragraph 41); and
 - Responsive to determining the power transition is indicative of a cold start (paragraph 41), retrieving power state information (204) and, based on the power state information, restoring

power to at least some of the modules of the network (210), wherein the power state information represents the power state of the network prior to the power transition (inherent given that the power state information is indicative of an off state given the determination that the transition is indicative of a cold start where all devices are off) and further wherein the power state information prevents the powering on of network modules having incompatible communication protocols (220, 222).

- As per claims 2, 16, Franke discloses further comprising, responsive to determining that the power transition is not indicative of a cold start (paragraph 42), querying the network modules for their power state and communication protocol types and storing the power state and communication protocol information in non-volatile storage (402; paragraphs 44-45).
- As per claims 3, 17, Franke discloses wherein querying a network module includes retrieving module identification information from a non-volatile storage device on the module (paragraphs 44-45; inherent that the information is stored on non-volatile memory given that the blade is not powered initially but produces logical information when it is queried).
- As per claims 4, 18, Franke discloses wherein querying the network modules is further characterized as querying server modules and switch modules of the network (402; paragraphs 44-45), each server module comprising a symmetric multiprocessor system (figures 1, 5; PB1-PB14), and each switch module configured to interconnect the server modules (figure 1).
- As per claims 5, 19, Franke discloses wherein each network module switch module is characterized by communication protocol selected from Ethernet, fibre channel, and serial (paragraph 59).
- As per claim 7, Franke discloses a data processing network, comprising:
 - A plurality of server modules (figure 5);
 - At least one switch module connecting the servers (SW A); and

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- A management module (management module) to consult stored power state information following a power transition and to restore power to at least some of the server and switch modules based on the power state information to prevent the management module from restoring power to any server and switch modules having incompatible communication protocols (paragraphs 32, 58, 62).
- As per claim 8, Franke discloses wherein the plurality of server modules comprise a plurality of symmetric multiprocessor (SMP) server modules housed within a single chassis (figures 1, 5; PB1-PB14), and further wherein the at least one switch module is housed within the chassis (figures 1, 5), and still further wherein the servers modules and at least one switch module share selected resources of the network including system power (paragraph 57).
- As per claim 9, Franke discloses wherein the server modules and at least one switch module are compliant with a communication protocol selected from Ethernet, fibre channel, and serial (paragraph 59).
- As per claim 10, Franke discloses wherein the management module is configured to:
 - Determine whether the power transition is indicative of a cold start (inherent that the transition is detected if the type of transition is determined; paragraph 41); and
 - Responsive to determining the power transition is indicative of a cold start (paragraph 41), restore power to at least some of the modules based on the power state information (224), wherein the power state information represents the power state of the network prior to the power transition (inherent given that the power state information is indicative of an off state given the determination that the transition is indicative of a cold start where all devices are off) and further wherein the power state information prevents the management module from powering on of network modules having incompatible communication protocols (220, 222).

- As per claim 11, Franke discloses wherein the management module is further configured to query the modules for their power state and communication protocol types responsive to determining that the power transition is not indicative of a cold start (paragraph 42), and to store the power state and communication protocol information in non-volatile storage (402; paragraphs 44-45).
- As per claim 12, Franke discloses wherein each module includes module identification information stored in a non-volatile storage device on the module, wherein the identification information is indicative of the communication protocol type (paragraphs 44-45; inherent that the information is stored on non-volatile memory given that the blade is not powered initially but produces logical information when it is queried).
- As per claim 13, Franke discloses wherein each network module and each switch module is characterized by a communication protocol selected from Ethernet, fibre channel, optical and serial (paragraph 59).

Allowable Subject Matter

4. Claims 6, 14, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Franke does not disclose restoring power to any module indicated by the power state information as being on during a previous tenure without regard to the communication protocol being used.

Response to Amendment

5. The affidavit filed on 6/21/06 under 37 CFR 1.131 has been considered but is ineffective to overcome the Franke reference. All the inventors of the claimed subject matter must sign the affidavit. See MPEP 715.04.

Response to Arguments

6. Applicant's arguments filed 6/21/06 have been fully considered but they are not persuasive in view of the discussion above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Patel whose telephone number is (571) 272-7211. The examiner can normally be reached on Mon-Fri 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ABP


LYNNE H. BROWNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100